



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/111,915	07/08/1998	DANIEL R. BOGGS	F-5366	6292

7590 12/31/2003

BRADFORD R L PRICE  
BAXTER INTERNATIONAL INC  
RT 120 AND WILSON ROAD  
P O BOX 490  
ROUND LAKE, IL 60073

EXAMINER

FORTUNA, ANA M

ART UNIT	PAPER NUMBER
----------	--------------

1723

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

A 9-30

**Office Action Summary**

Application No.

09/111,915

Applicant(s)

BOGGS ET AL.

Examiner

Ana M Fortuna

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 46-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 46-55 is/are allowed.
- 6) ☒ Claim(s) 56-60 and 62-66 is/are rejected.
- 7) ☐ Claim(s) 61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12/14/03                      6) ☐ Other:

### **DETAILED ACTION**

1. Applicant's arguments, see, filed 7/01/02, with respect to 46-55 have been fully considered and are persuasive. The rejection of claims 46-55 has been withdrawn. Reasons for indicating allowable subject matter: the particulate distribution within the skin (polymer particulate) is not disclosed in the prior art of record.

#### ***Allowable Subject Matter***

2. Claims 46-55 allowed.
3. Claim 61 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. The following is a statement of reasons for the indication of allowable subject matter: allowance is based on the particulate distribution on the skin formed by the particulate polymer composition, and is by Applicant's Declaration filed on 7/01/02, page 3, sections 4 and 6.
5. Rejection of claims 56-60, 62-66 is maintained as stated on paper No. 20 (7/31/01).

#### ***Response to Arguments***

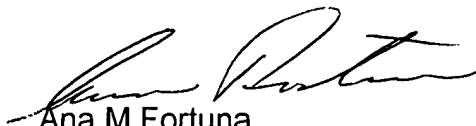
6. The rejection of claims 56-60, 62-66 is maintained because the argued limitation, e.g. skin particulate distribution, as argued on the Declaration, and remarks, is not a limitation of the "Product" claimed in claims 56 or 66.

Claims 56 and dependent claims, and claim 66 will be allowed if amended to include the particulate distribution within the membrane/skin.

7. A proposed amendment including adding the suggested limitation, e.g. particulate distribution in the membrane/skin was discussed on 12/18/03, with Mr. Andrew Kolomayets, which did not result in the amendment being approved because of Applicant was not available.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana M Fortuna whose telephone number is (571) 272-1141. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (571) 271-1151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

  
Ana M Fortuna  
Primary Examiner  
Art Unit 1723

AMF  
December 28, 2003